

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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| In re: |) | MDL No. 1456 |
| |) | Civil Action No. 01-12257-PBS |
| PHARMACEUTICAL INDUSTRY |) | Subcategory No. 06-11337 |
| AVERAGE WHOLESALE PRICE |) | |
| LITIGATION |) | Hon. Patti B. Saris |
| |) | |
| |) | |
| |) | |

THIS DOCUMENT RELATES TO:

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| <i>United States ex rel Ven-A-Care of the</i> |) | |
| <i>Florida Keys, Inc. v. Schering Corporation,</i> |) | |
| <i>Schering-Plough Corporation and</i> |) | |
| <i>Warrick Pharmaceuticals Corporation</i> |) | |
| Civil Action No. 09-CV-10547 |) | |

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| <i>United States ex rel Ven-A-Care of the</i> |) | |
| <i>Florida Keys, Inc. v. Schering Corporation,</i> |) | |
| <i>Schering-Plough Corporation and</i> |) | |
| <i>Warrick Pharmaceuticals Corporation</i> |) | |
| Civil Action No. 00-10698 |) | |

**THE PARTIES' JOINT MOTION REQUESTING THAT, IF POSSIBLE, THE COURT
SET THEIR SCHEDULING CONFERENCE FOR EARLIER IN
THE DAY ON JULY 24, 2009**

Defendants Schering Corporation, Schering-Plough Corporation and Warrick Pharmaceuticals Corporation, and the Relator Ven-A-Care of the Florida Keys, Inc., together with the State of California, which are parties to the settlement that will be discussed at their July 24, 2009 scheduling conference, hereby jointly move this Court for an order setting that scheduling conference at 2:00 p.m. on July 24, 2009, if possible. In support of their motion, the parties state as follows:

1. The parties are currently scheduled to appear for a conference with this Court at 4:30 p.m. on July 24, 2009. Having requested and been granted a prompt scheduling conference,

the parties are prepared to, and wish to proceed on July 24, 2009, regardless of when during that day the Court might be able to hear them.

2. However, having noticed Class Counsel's Motion to Reset Date of Hearing on Forthcoming Motion for Preliminary Approval of the Proposed BMS Settlement [Docket No. 6259], which hearing is currently scheduled for 2:00 p.m. on July 24, 2009, the parties to the above-captioned actions and the broader settlement that has been reached respectfully request that, if Class Counsel's motion is allowed and if possible, the Court hear them at 2:00 p.m. on July 24, 2009.

3. The settlement that has been reached and that will be the subject of the scheduling conference has certain features that may take some time to explain to the Court. Moreover, the parties understand that certain non-parties to their settlement may wish to be heard at the scheduling conference. Additional time, therefore, if available on the Court's calendar, might be productive and enable the parties to more fully present the Court with the terms of their proposed settlement and the steps that they believe should be taken to approve it.

4. The earlier time also would better accommodate travel by counsel from California and Florida, each of whom plan to attend the hearing.

WHEREFORE, the parties respectfully request that, if possible, the Court accommodate their request to hear them at 2:00 p.m. on July 24, 2009.

Respectfully submitted,

/s/ John P. Bueker

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Dated: July 15, 2009

/s/ James J. Breen

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Attorneys for Ven-A-Care of the
Florida Keys, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2009 a true copy of the above Joint Stipulation was served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

July 15, 2009

/s/ John P. Bueker

John P. Bueker